

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

UNITED STATES OF AMERICA ex rel.
CORY RIGSBY and KERRI RIGSBY

RELATORS/COUNTER-DEFENDANTS

v.

CASE NO. 1:06cv433-LTS-RHW

STATE FARM FIRE AND CASUALTY COMPANY DEFENDANT/COUNTER-PLAINTIFF

and

FORENSIC ANALYSIS ENGINEERING CORPORATION;
HAAG ENGINEERING CO.; and ALEXIS KING

DEFENDANTS

**STATE FARM'S RENEWAL OF ITS MOTION TO EXCLUDE
THE RIGSBYS' EXPERT WITNESS KEITH G. BLACKWELL, PH.D. ([296] & [297])**

1. State Farm Fire and Casualty Company respectfully renews and re-urges its motion to exclude the testimony of the Rigsbys' expert witness, Keith G. Blackwell, Ph.D. ([296] & [297].)

2. On June 1, 2009, State Farm's motion to exclude Dr. Blackwell was fully briefed and *sub judice*. ([296], [297], [323] & [332].)

3. On August 10, 2009, the Court issued a memorandum opinion noting that State Farm had moved to exclude four of the Rigsbys' experts, including Dr. Blackwell, and that the motion would be addressed in a separate opinion. ([343] at 1.) The motion remains *sub judice* before this Court.

4. After the Court issued its August 10, 2009 Order, the Rigsbys submitted an updated report from Dr. Blackwell. ([409-2 to -3].) That report is nearly identical to his prior report and does not change the multiple grounds for excluding his opinion in any material way.

5. In the interests of brevity and judicial economy, State Farm respectfully relies upon and re-urges all the grounds previously set forth for excluding Dr. Blackwell. *See* ([296], [297] & [332].) Of course, much more than Dr. Blackwell's qualifications are at issue, *see* ([343] at 1), and "[w]hile there is inevitably some overlap among the basic requirements – qualification, reliability, and

helpfulness – they remain distinct concepts and courts must take care not to conflate them.” *United States v. Frazier*, 387 F.3d 1244, 1260 (11th Cir. 2004) (en banc). For the reasons set forth in State Farm’s prior papers, this Court should exclude Dr. Blackwell’s testimony in its entirety.

This the 3rd day of August, 2010.

Respectfully submitted,

STATE FARM FIRE AND CASUALTY COMPANY

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PRO HAC VICE

CERTIFICATE OF SERVICE

I, E. Barney Robinson III, one of the attorneys for State Farm Fire and Casualty Company, do hereby certify that I have this day caused a true and correct copy of the foregoing instrument to be delivered to the following, via the means directed by the Court's Electronic Filing System:

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This the 3rd day of August, 2010.

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